

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**DECLARATION OF ATARA MILLER IN SUPPORT OF THE REPLY OF
AMBAC ASSURANCE CORPORATION, FINANCIAL GUARANTY INSURANCE
COMPANY, ASSURED GUARANTY CORP., ASSURED GUARANTY MUNICIPAL
CORP., AND U.S. BANK TRUST NATIONAL ASSOCIATION, IN SUPPORT
OF THEIR AMENDED MOTION CONCERNING APPLICATION OF THE
AUTOMATIC STAY TO THE REVENUES SECURING PRIFA RUM TAX BONDS**

Atara Miller, an attorney duly admitted to practice in the State of New York and admitted *pro hac vice* in the District of Puerto Rico, and not a party to the above-captioned matter (the “Action”), declares the following to be true under the penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am a member of the firm Milbank LLP, counsel to Ambac Assurance Corporation in the Action.

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801).

2. I make this declaration in support of the *Reply of Ambac Assurance Corporation, Financial Guaranty Insurance Company, Assured Guaranty Corp., Assured Guaranty Municipal Corp., and U.S. Bank Trust National Association, in Support of Their Amended Motion Concerning Application of the Automatic Stay to the Revenues Securing PRIFA Rum Tax Bonds* (the “PRIFA Lift-Stay Reply”).²

3. On April 23, 2020, the Government Parties and Ambac Assurance Corporation, Assured Guaranty Corp., Assured Guaranty Municipal Corp., National Public Finance Guarantee Corporation, Financial Guaranty Insurance Company, The Bank of New York Mellon, and U.S. Bank Trust National Association executed a stipulation entitled “Stipulation Regarding Authenticity of Documents in Connection with Lift-Stay Motion” (the “Authenticity Stipulation”). Attached hereto as Exhibit 25 is a true and correct copy of the Authenticity Stipulation. The Authenticity Stipulation provides that (subject to certain exceptions) no party to the Authenticity Stipulation will “contest the authenticity of any” document under Rule 901 of the Federal Rules of Evidence if the document bears, *inter alia*, the Bates prefix “CW_STAY” or “PRIFA_STAY.” See Ex. 25 at 3. The Authenticity Stipulation also provides that (subject to certain exceptions) the parties will not dispute the admissibility of documents authored or otherwise created by the Government Parties or certain third-party banks. *Id.* at 4.

I. EXHIBITS ATTACHED TO THE PRIFA LIFT-STAY REPLY

4. Attached hereto as Exhibit 26 is a true and correct copy of the deposition transcript of Timothy H. Ahlberg dated April 23, 2020. Mr. Ahlberg was designated as the Rule 30(b)(6) representative for, among other entities, the Commonwealth and PRIFA.

² Capitalized terms herein have the same meaning as they do in the PRIFA Lift-Stay Reply.

5. Attached hereto as Exhibit 27 is a true and correct copy of an excerpt of the Commonwealth's annual financial statements for the year ended June 30, 2014.

6. Attached hereto as Exhibit 28 is a true a correct copy of an excerpt of the Commonwealth's annual financial statements for the year ended June 30, 2013.

7. Attached hereto as Exhibit 29 is a true and correct copy of an excerpt of the Commonwealth's annual financial statements for the year ended June 30, 2015. (CW_STAY0009784).

8. Attached hereto as Exhibit 30 is a true and correct copy of an excerpt of the Commonwealth's annual financial statements for the year ended June 30, 2011.

9. Attached hereto as Exhibit 31 is a true and correct copy of Puerto Rico Department of Treasury: Treasury Single Account ("TSA") FY 2018 Cash Flow October & November FY2018. (CW_STAY0000229).

10. Attached hereto as Exhibit 32 is a true and correct copy of Puerto Rico Department of Treasury: Treasury Single Account ("TSA") FY 2020 Cash Flow, for the month of January FY20. (CW_STAY0000914).

11. Attached hereto as Exhibit 33 is a true and correct copy of Puerto Rico Department of Treasury: Treasury Single Account ("TSA") FY 2019 Cash Flow, as of March 8, 2019.

12. Attached hereto as Exhibit 34 is a true and correct copy of an excerpt of the Commonwealth's annual financial statements for the year ended June 30, 2016. (CW_STAY0010168).

13. Attached hereto as Exhibit 35 is a true and correct copy of an excerpt of Concepts Statement No. 1 of the Governmental Accounting Standards Board (May 1987).

14. Attached hereto as Exhibit 36 is a true and correct copy of the Letter from Elizabeth L. McKeen and Michael Mervis to Movants' counsel, dated March 21, 2020.

15. Attached hereto as Exhibit 37 is a true and correct copy (along with a certified English translation) of the account opening documents for the GDB -1891 Account. (PRIFA_STAY0004737).

16. Attached hereto as Exhibit 38 is a true and correct copy (along with a certified English translation) of certain documents associated with Treasury's receipt of Rum Tax Remittances from the U.S. Treasury. (PRIFA_STAY0001065).

17. Attached hereto as Exhibit 39 is a true and correct copy of the Letter from Elizabeth L. McKeen to Movants' counsel, dated March 13, 2020.

18. Attached hereto as Exhibit 40 is a true and correct copy of transmittal information associated with an August 16, 2019 transfer of \$41,537,663.82 of Rum Tax Remittances from the Lockbox Bank to Treasury. Exhibit 40 is representative of the transmittal information associated with all other transfers of Rum Tax Remittances from the Lockbox Bank to Treasury that were produced by AAFAF. (PRIFA_STAY0001515).

19. Attached hereto as Exhibit 41 is a true and correct copy (along with a certified English translation) of a directive from the Office of the Director of Notary Inspectors entitled "General Instructions for the Notaries," dated October 1, 2012.

20. Attached hereto as Exhibit 42 is a true and correct copy of an excel file entitled "Bank Account Information Request." (CCDA_STAY00000001).

21. Attached hereto as Exhibit 43 is a true and correct copy of an excerpt of the Employees Retirement System of the Government of the Commonwealth of Puerto Rico's Pension Funding Bond Resolution, adopted on January 24, 2008.

22. Attached hereto as Exhibit 44 is a true and correct copy of an excerpt of the Official Statement for the Puerto Rico Public Finance Corporation 2003 Series A Bonds, dated July 2, 2003.

23. Attached hereto as Exhibit 45 is a true and correct copy of an excerpt of United States Government Accountability Office, “Principles of Federal Appropriations Law” (4th ed. 2016).

24. Attached hereto as Exhibit 46 is a true and correct copy of excerpts of the Official Statements for the Employees Retirement System of the Commonwealth of Puerto Rico Senior Pension Funding: Series A Bonds, dated January 29, 2008; Series B Bonds, dated May 28, 2008, and; Series C Bonds, dated June 26, 2008.

II. EXHIBITS ATTACHED TO THE PRIFA LIFT-STAY OPENING BRIEF

25. Movants’ opening brief appended twenty-four exhibits. For the Court’s reference, those twenty-four exhibits are true and correct copies of the documents listed in the below chart:

Exhibit Number	Document Title
1	Proposed Order Granting Motion of Ambac Assurance Corporation, Financial Guaranty Insurance Company, Assured Guaranty Corp., Assured Guaranty Municipal Corp., and U.S. Bank Trust National Association, Concerning Application of the Automatic Stay to the Revenues Securing PRIFA Rum Tax Bonds
2	Trust Agreement by and between Puerto Rico Infrastructure Financing Authority and Citibank, N.A., as trustee (Oct. 1, 1988)
3	Email from Joseph A. Spina, Counsel to AAFAF to Atara Miller, <i>et. al</i> (Sept. 12, 2019, 8:05 p.m.)
4	Administrative Bulletin OE-2015-046 (Nov. 30, 2015)
5	Act 21-2016, the Puerto Rico Emergency Moratorium and Rehabilitation Act (Apr. 6, 2016)
6	Administrative Bulletin OE-2016-14 (Apr. 30, 2016)
7	Administrative Bulletin EO-2016-30 (June 30, 2016)

Exhibit Number	Document Title
8	Administrative Bulletin EO-2016-31 (June 30, 2016)
9	Act 5-2017, the Puerto Rico Financial Emergency and Fiscal Responsibility Act (Jan. 29, 2017)
10	Lockbox Agreement by and among Citibank, N.A., Banco Popular de Puerto Rico, and the Government of Puerto Rico (May 5, 2015)
11	Agreement by and among Bacardí International Limited, Bacardí Corporation, Bacardí Limited, and the Government of Puerto Rico (Dec. 31, 2010)
12	Complaint, <i>Assured Guar. Corp. v. García-Padilla</i> , No. 3:16-cv-01037 (D.P.R. filed Jan. 7, 2016), ECF No. 1
13	Complaint, <i>Ambac Assurance Corp. v. Rosselló Nevares</i> , No. 3:17-cv-01568 (D.P.R. filed May 2, 2017), ECF No. 1
14	Complaint, <i>Ambac Assurance Corp. v. U.S. Dep't of Treasury</i> , No. 1:17-cv-00809 (D.D.C. filed May 2, 2017), ECF No. 1
15	Press Release, Puerto Rico Fiscal Agency and Financial Advisory Authority, Government Has Earned \$49 Million in Interest Fiscal Year-to-Date (Dec. 5, 2019)
16	UCC-1 Financing Statement filed by U.S. Bank Trust National Association (Sept. 18, 2015)
17	Official Statement, Puerto Rico Infrastructure Financing Authority Series 2005 Bonds
18	Reorg Research, Inc., <i>Puerto Rico Legislature Passes \$8.78B Fiscal 2017 General Fund Budget</i> (July 1, 2016)
19	Financial Oversight and Management Board for Puerto Rico, FY18 Budget (June 30, 2017)
20	Press Release, Financial Oversight and Management Board for Puerto Rico: Oversight Board Submits FY19 Commonwealth Compliant Budget Certified by Unanimous Written Consent (June 30, 2018)
21	Financial Oversight and Management Board for Puerto Rico, FY20 Certified Budget for the Commonwealth of Puerto Rico (June 30, 2019)
22	Puerto Rico Fiscal Agency and Financial Advisory Authority, Fiscal Plan for Puerto Rico (Mar. 13, 2017)
23	Financial Oversight and Management Board for Puerto Rico, 2019 Fiscal Plan for Puerto Rico: Restoring Growth and Prosperity (May 9, 2019)

Exhibit Number	Document Title
24	Financial Oversight and Management Board for Puerto Rico, Overview of FY20 Certified Budget for the Commonwealth of Puerto Rico (July 1, 2019)

I declare, under penalty of perjury, that the foregoing statements are true and correct.

Executed: New York, New York
April 30, 2020

/s/ Atara Miller
Atara Miller